

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

KATHLEEN QUENZEL EAKER,

Plaintiff,

v.

ROBERT J. HERTZ, MADISON COUNTY,
ILLINOIS, and NICHOLAS MOOSHEGIAN,

Defendants.

Case No. 11-cv-612-JPG-DGW

MEMORANDUM AND ORDER

This matter comes before the Court on the motion to dismiss filed by the defendants pursuant to Federal Rule of Civil Procedure 12(b)(6) (Doc. 9). The motion to dismiss refers to matters outside the pleadings. When such material is presented in connection with a Rule 12(b)(6) motion to dismiss, the Court may treat the motion to dismiss as a motion for summary judgment or it may exclude the additional material from consideration. *See* Fed. R. Civ. P. 12(d). In this case, the Court believes consideration of the matters outside the pleadings may expedite the disposition of this case. Therefore, the Court gives the plaintiff **NOTICE** that the Court will construe the defendant's motion as a motion for summary judgment under Federal Rule of Civil Procedure 56. The plaintiff should respond accordingly.

IT IS SO ORDERED.

DATED: November 16, 2011

s/ J. Phil Gilbert
J. PHIL GILBERT
DISTRICT JUDGE